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South Carolina House of Representatives

# Legislative Update

Robert J. Sheheen, Speaker of the House

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### House Week in Review

On Tuesday, an act to reapportion the House's 124 districts, H. 4333, became law without the signature of Governor Campbell. Before the districts adopted in this act may be used in this year's elections, however, the State must obtain approval for this plan either from the U.S. Justice Department or the federal District Court of the District of Columbia, to ensure that the plan complies with the requirements of the Voting Rights Act. A bill to reapportion the state's congressional districts, H. 4332, is still pending in the Senate Judiciary Committee.

On Wednesday, the House voted 60-51 to invoke immediate cloture on H. 3267, the Woman's Right to Know Act. Under House rules, when immediate cloture is invoked, no additional amendments to a bill may be considered aside from the amendment under consideration at the time cloture is invoked, and further debate on the bill is limited to 2 hours. A vote on this measure could come the week of February 22.

On Thursday, the House concluded several days' debate on H. 4691, a bill to appropriate \$30 million to begin paying income tax refunds to federal retirees resulting from settlement of federal retirees' lawsuits (Bass v. State of South Carolina and Perri v. State of South Carolina) and to also appropriate approximately \$4.7 million for upcoming renovations of the State House. The bill was amended to reduce the appropriation for the State House to \$2.7 million, so that \$2 million could be appropriated to the Department of Corrections for costs associated with opening of new prisons. There was lengthy debate on several amendments prohibiting deductions from retirees' refunds for attorneys' fees, but these amendments were tabled, and the House on Thursday voted to give approval to this bill.

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### Bills Introduced

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The following bills were introduced in the House last week. Not all bills introduced are listed here. The bills are listed according to the committee to which the legislation was referred.

#### Agriculture, Natural Resources and Environmental Affairs

Extension of Quail Hunting Season in Game Zone 8 (H. 4772, Rep. Hines). This bill extends from March 1 to March 15 the end of the period during which weapons may be used to hunt quail in Game Zone 8, so that the quail hunting season during which weapons may be used would run from Thanksgiving Day through March 15. Game Zone 8 consists of Darlington, Lee and Sumter Counties.

Mining Activities (H. 4773, Rep. Sharpe). This bill allows the Department of Health and Environmental Control (DHEC) to develop and implement a general permit for the regulation of various mining activities conducted pursuant to the South Carolina Mining Act. This permit applies only to affected areas of 2 acres or less and is restricted to excavation for topsoil, sand, or sand and clay fill material which does not require further processing. DHEC may limit the time period for excavation conducted pursuant to a general permit, and this permit must at a minimum contain standard plans and specifications for environmental protection, stormwater management, public safety and reclamation of affected lands. Operators conducting mining activities in accordance with a general permit must notify DHEC before initiation of mining, and DHEC may require the operator to obtain an operating permit in lieu of a general permit if the department determines the former is appropriate and necessary to ensure environmental protection or public safety. In addition to other penalties provided under the State's Mining Act, failure to implement the conditions included in the general permit could result in the requirement for submittal of site-specific plans and the issuance of an operating permit by DHEC. The bill also authorizes DHEC to issue cease and desist orders and civil penalties for miners who, in conducting mining activities under this permit, fail to notify DHEC before initiation of mining or who fail to comply with the requirements of the permit.



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### Education and Public Works

**Students Possessing Pistols or Handguns on School Property Must Be Expelled** (H. 4734, Rep. Clyborne). This bill requires a school district board of trustees to expel any student who was found in possession of a pistol or handgun on school property. The expulsion would be in addition to all other penalties provided by law. Additionally, the school board and school administrators must follow all procedures relating to expulsion of students, including any required notices and hearings to determine whether the student actually did possess a pistol or handgun on school property.

**Establishment of Pilot Project for School-Based Counseling Services** (H. 4741, Rep. P. Harris). This joint resolution requires the Department of Mental Health and the Department of Education to jointly establish a 3-year pilot project for school-based counseling services. The purpose of this project is to provide an array of school-based and child-focused counseling services developed by the Department of Mental Health in designated schools. This pilot project must serve at least 14 schools, and services at a minimum must include a child-focused, school-based counseling clinic, and training, consultation and support programs for school staff. The bill lists criteria for selection of schools for this program and places joint responsibility on the Department of Mental Health and the Department of Education for selecting individual schools and mental health centers within the designated parameters for participation in this project.

The bill lists the responsibilities of each Department in furnishing staffing, equipment and facilities for this project and requires the departments to use Medicaid reimbursement to offset the cost to the State. The bill also establishes a School-Based Mental Health Pilot Project Advisory Board, with the Superintendent of Education, the Director of Mental Health, and the Legislative-Governor's Committee on Mental Health and Mental Retardation each appointing a member. This board must advise in regard to the project's implementation, and participating centers and schools must provide quarterly updates to this board.

This pilot project would end on July 1, 1997, and a final report must be submitted to the Legislative-Governor's Committee on Mental Health and Mental Retardation by the involved departments no later than November 1, 1997. The committee must forward this report with its recommendations for school-based counseling services to the General Assembly no later than January 15, 1998.

### Judiciary

**Deposits of Professional Bondsmen in Form Of Pledges Must Be Based on Appraised Value of Real Estate** (H. 4730, Rep. J. Bailey). This bill provides that when a professional bondsman maintains deposits with his county clerk of court by the pledge of the value of real estate in South Carolina, then this

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pledge must be based on the appraised value of that real estate, instead of the assessed value of the real estate.

**Vulnerable Adult Not Considered to Be Abused or Neglected If Being Provided Certain Nonmedical Remedial Treatment** (H. 4740, Rep. Corning). Under these provisions, a vulnerable adult may not be considered to be abused or neglected solely if he is being furnished with nonmedical remedial treatment instead of medical treatment, provided that the nonmedical remedial treatment is furnished by spiritual means, through prayer alone, which the person has practiced in accordance with the tenets of a recognized church or religious denomination.

**Age at Which Juveniles May Be Tried as Adults for Certain Offenses Lowered** (H. 4742, Rep. McLeod). This bill expands the definition of "child" under the State's Children's Code to include any person, and not just persons under age 18, whose age makes him subject to the exclusive original jurisdiction of the Family Court. The definition of "child" as pertains to Family Court jurisdiction is changed, so as to include "juveniles" and "minors" and to provide that a child, etc. is (1) a person under age 18 when charged with a status offense or dealt with as a dependent, abused or neglected child; (2) a person under age 14 when charged with a violent crime, felony, possession of a firearm, a weapon, or any offense accomplished or attempted with the use, presentation, carrying, display, possession or threat of a firearm or weapon; or (3) a person under age 16 when charged with violation of another state or local law or municipal ordinance not listed above.

Under these provisions, a child under the age of 14 with 2 prior and unrelated adjudications of a felony, violent crime, and various weapons and controlled substance violations and charged with a third or subsequent offense may be bound over by the Family Court to another court to be treated as an adult. The bill also deletes the maximum age limit (currently age 17) under which a child may be committed to the Department of Juvenile Justice and allows a judge to issue a writ of habeas corpus to produce in court where necessary any person over whom the judge has exclusive or concurrent jurisdiction (as currently opposed to producing in court any person under the age of 17).

The bill also lowers from 17 to 16 the minimum age for which the Department of Juvenile Justice may transfer temporarily to the custody of the Youthful Offender Division a child whose presence appears to be detrimental to the welfare of others in the Department's custody.

**Increased Penalties for Failure to Stop for a Law Enforcement Vehicle** (H. 4747, Rep. T. Alexander). Under current law, a person who fails to stop his vehicle when signaled by a law enforcement officer is guilty of a misdemeanor, punishable by a fine of at least \$500 or imprisonment of between 90 days and 3 years. This bill would make it a felony to commit this offense a second or subsequent time or to inflict great bodily injury or death on someone while committing this offense, with punishments as follows:



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- (a) First Offense (No Great Bodily Injury or Death): Misdemeanor punishable by minimum \$500 fine or imprisonment of between 90 days and 3 years;
- (b) Second or Subsequent Offense (Also No Great Bodily Injury or Death): Felony punishable by imprisonment of not more than 5 years;
- (c) Offense Resulting in Great Bodily Injury: Felony punishable by imprisonment of not more than 10 years;
- (d) Offense Resulting in Death: Felony punishable by imprisonment of not more than 25 years.

The Department of Public Safety is required to suspend the driver's license of a person who is convicted of, or pleads guilty or nolo contendere to this felony when great bodily injury or death results. The bill defines "great bodily injury" as bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement, or protracted loss of or impairment of the function of a bodily member or organ.

Establishment of Redevelopment Authority to Acquire and Dispose of Federal Military Installations (H. 4753, Rep. Kelley). This bill allows the governor to create one or more redevelopment authorities to oversee the disposition of federal property turned over to the state or which has been designated as surplus property by the federal government. Members of the authority are appointed by the governor, with the number of members varying according to the location of the property. If the federal property to be disposed of is located within 1 county, then the authority must include 2 representatives of the State, 3 representatives of the county, and 3 representatives of each municipality which is included within the property. If, however, the property is located in more than 1 county, the authority must include 2 representatives of the State, 2 representatives of each county, and 2 representatives of each municipality which is included in the property. The county's legislative delegation and governing body, along with the municipal governing body, are to make recommendations to the governor for appointments.

Authority members would serve staggered 4-year terms and could be removed by the governor for incompetency, misconduct and other reasons. The governor would appoint a chairman of the authority. No authority member may be an elected official, nor may a member run for public office while a member of the authority. Additionally, no member or employee may acquire any interest in any redevelopment project or in any property included or planned to be included in a redevelopment area. Nor may a member or employee have any interest in any contract or proposed contract for materials or services to be furnished or used by the authority, or in any contract with a developer or redeveloper relating to a development project. However, a member or employee, under certain conditions, may acquire residential property in a redevelopment area from a person or entity other than the authority after the redevelopment plan(s) for that area are adopted.

The bill lists the powers of the authority, which include, among others, to prepare and recommend redevelopment plans and to undertake and

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carry out redevelopment projects within its area of operation; make surveys and studies; make expenditures necessary to carry out these provisions; and temporarily rent or lease property within a redevelopment area pending disposition of the property for development.

**Parental Access to Educational and Medical Records of Minor Children** (H. 4767, Rep. Neilson). Under these provisions, each parent, whether the custodial or noncustodial parent of a child, has equal access and the same right to obtain all educational and medical records of their minor children.

**Disapproval of Regulations** (H. 4768, Rep. Robinson). This bill provides that when a joint resolution disapproving a regulation is introduced by 5 or more members of the General Assembly, then the 120-day period for automatic approval of regulations is tolled.

**General Assembly May Repeal Regulations by Joint Resolution** (H. 4769, Rep. Robinson). This bill allows the General Assembly, by passage of a joint resolution, to repeal regulations.

**Qualifications for Appointment of Adjutant General** (H. 4776, Rep. Wilkins). This bill sets qualifications for persons seeking appointment as adjutant general. Implementation of these provisions is contingent on passage of a constitutional amendment (summarized below in H. 4777) which would require the governor to appoint the adjutant general.

Under these provisions, anyone appointed by the governor to be adjutant general must be a registered voter in this State; must have a minimum of 10 years' federally-recognized commissioned service in the National Guard; must be in grade O-6 or above in the National Guard; and must not reach the age of 64 prior to expiration of the term for which the person is appointed. In addition to these qualifications, the governor also must consider the person's military experience, including command experience and promotion experience for the rank of major-general and above in the uniformed services.

The bill also provides that the term of the adjutant general is coterminous with the term of the governor, and that vacancies must be filled in the same manner and with the same qualifications as the original appointment.

**Adjutant General No Longer to Be Elected by Voters** (H. 4777, Rep. Wilkins). If this proposed constitutional amendment is adopted, the adjutant general no longer would be elected by the state's voters; instead, beginning upon the expiration of the term of the adjutant general in office at the time of the 1998 general election, the adjutant general would be appointed by the governor for a term coterminous with the governor. The General Assembly would provide by law for the qualifications for adjutant general.

**Volunteer Service Protection Act** (H. 4778, Rep. G. Bailey). This bill provides immunity from civil liability for volunteers for any act or omission of the volunteer which results in damage or injury, provided that (1) the



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volunteer was acting in good faith and within the scope of his official functions and duties for a nonprofit organization, a nonprofit corporation, hospital or government entity; and (2) the damage or injury was not caused by wilful and wanton misconduct by the volunteer. In an action against a nonprofit organization, nonprofit corporation or a hospital for civil damages based on the negligent act or omission of the volunteer, proof of the act or omission is sufficient to establish the responsibility of the organization, notwithstanding the immunity granted to the volunteer. The bill permits a plaintiff to sue and recover civil damages from a volunteer based upon a negligent act or omission involving the operation of a motor vehicle during an activity; however, the amount recovered from the volunteer may not exceed the limits of applicable insurance coverage maintained by or on behalf of the volunteer with respect to the negligent operation of a vehicle.

If adopted, these provisions would be effective upon approval of the governor and would apply to a civil action commenced on or after 180 days from the effective date of this act, regardless of whether the claim arose before the effective date.

**Reporting of Juvenile Adjudications** (S. 1096, Sen. Land). This bill requires the Family Court, in addition to being currently required to report adjudications of juveniles for moving traffic violations to the Department of Public Safety, to also report to that Department adjudications adjudication of juveniles for other violations which affect a juvenile's privilege to drive, including but not limited to controlled substance and alcohol violations. The bill, as pertains to suspension of the driver's license of a person convicted of a controlled substance violation, also defines the terms "controlled substance violation" and "drug offense" as follows:

(a) **Controlled Substance Violation**: A violation of South Carolina's Controlled Substances Act, the U.S. Controlled Substance Act, or a drug offense committed in another state;

(b) **Drug Offense**: The actual or attempted possession, distribution, manufacture, cultivation, sale or transfer of a substance which is prohibited under the U.S. Controlled Substance Act.

The bill also provides that a conviction, as pertains to the suspension of a driver's license for a person convicted of various alcohol offenses or alteration of a driver's license, is defined as listed under the South Carolina Commercial Driver License Act and also includes being adjudicated for juvenile proceedings.

**Payment of Corporate License Fees** (S. 671, Sen. Land). This bill requires corporate license fees to be paid at the time the articles of incorporation or an application by a foreign corporation for a certificate of authority is filed with the Secretary of State. The bill also deletes obsolete provisions pertaining to license fees imposed on certain railroad-related industries (i.e., sleeping car companies, tank care companies, etc.)

**Head of Department of Commerce is Called Secretary** (S. 1175, Senate Labor, Commerce and Industry Committee). This bill provides that the head of the Department of Commerce is to be known as the "Secretary," as currently



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opposed to the "Director," of Commerce, and allows the Secretary to appoint a departmental executive director, who must serve at the pleasure of the Secretary and be responsible to the Secretary for the operation of programs outlined by the Secretary. The bill also provides that the Secretary is to appoint a "director," as currently opposed to a "deputy director," to head the Department's divisions (e.g., Aeronautics, Public Railways, etc.)

### Labor, Commerce and Industry

Deposit of Monies Received by a Property Manager or Broker (H. 4733, Rep. Clyborne). This bill provides for the deposit of monies received by a property manager or broker as agent for his principal in a real estate transaction. Under these provisions, monies received by a property manager must be deposited in a separate escrow or real estate trust account on or before the next banking day, while monies received by a broker must be deposited in either of those accounts according to the following timetable: (a) all cash monies or certified funds--within 72 hours of actual receipt; (b) all other monies--within 3 banking days after acceptance of a sales contract offer. The bill also provides that monies received by the property manager or broker under these provisions must remain deposited in the escrow or real estate trust account until the consummation or termination of the transaction, at which time the broker must make a full accounting of the monies to his principal.

### Medical, Military, Public and Municipal Affairs

Hospitals and Other Health Care Providers May Charge Fees for Making Copies of Medical Records (H. 4731, Rep. Rogers). This bill allows hospitals, health care facilities and other health care providers to charge a fee for making copies of existing medical records. The fee which may be charged for these services is the same as the current fee a physician may impose for such services---50 cents a page or a minimum fee of \$10, plus postage costs.

Limits on Terms of Members of County Boards of Social Services and Conditions of Removal of Members (H. 4736, Rep. Gamble). This bill increases the terms of members of County Boards of Social Services from 3 years to 4 years, limits members to 2 consecutive terms in office, and provides that any member may be removed by the governor for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard.

Smoke Detectors Required in One and Two-Family Rental Dwellings (H. 4750, Rep. Littlejohn). This bill is similar to H. 3531, a measure introduced in 1993 which would have required all one and two-family dwellings to be equipped with properly-functioning smoke detectors. The main difference between H. 3531 and H. 4750, however, is that H. 4750 requires the installation of properly-functioning smoke detectors in all one and two-bedroom rental dwellings, while H. 3531 applied to all such dwellings,

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whether rental ones or not. Under these provisions, these rental dwellings, including rental manufactured housing, must be equipped with approved and properly functioning smoke detectors by September 30, 1994. Any newly constructed dwelling or a dwelling remodeled in excess of 50 percent of its assessed value after December of 1994 must be equipped with electrically-powered smoke detectors, while battery-operated detectors are permitted in existing dwellings which had not undergone remodeling exceeding 50 percent of their assessed value.

The owner of the dwelling, or his authorized agent would be responsible for supplying and installing the smoke detectors in rental dwellings and housing and for giving written and/or verbal instructions for testing the detectors and replacing batteries in battery-operated ones at the time the tenant moves into the dwelling. If the tenant provides written notice to the owner that a smoke detector is deficient, then the owner must repair or replace the detector within 15 days. However, there is no obligation on the owner's part to repair or replace a detector that he determines has been deliberately tampered with, destroyed or damaged by the tenant or anyone authorized by the tenant to reside in the building, provided the owner notifies the tenant in writing of these findings.

The owner, his agent, tenant, seller, or purchaser of a dwelling would not be liable for damage, injury or death resulting from the mechanical failure of a smoke detector unless the failure is caused by improper installation or maintenance by one or more of these persons. Additionally, if a smoke detector malfunctions because of a tenant's intentional act or the manufacturer's negligent production of the detector, the owner, his agent, a tenant, seller or purchaser would not be liable, so long as they had no knowledge of the defective condition and exercised reasonable care in the acquisition, installation and maintenance of the detector.

The requirements of these provisions would be enforced by the State Fire Marshal and/or a local fire official, but only in response to an emergency or by invitation of the owner or occupant. A person violating these provisions the first time would be required to install, replace or replace a smoke detector, while a person violating these provisions a second time would be guilty of a misdemeanor, punishable by a fine of between \$50 and \$200 or imprisonment of not more than 30 days.

**Exemption from Health Licensure Requirements** (H. 4751, Rep. Wofford). This bill exempts community-based housing which is sponsored, licensed or certified by the South Carolina Department of Disabilities and Special Needs from the licensing provisions of the State's Certification of Need and Health Facility Licensure Act.

**Safe Cremation Act** (H. 4756, Rep. Waites). This bill lists procedures for authorizing and conducting cremations. Under these provisions, a person may authorize his own cremation, along with the final disposition of the cremated remains, by executing a cremation authorization form on a pre-need basis. A person may revoke this authorization at any time by destroying the



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executed form and providing written notice to the funeral director who handled the pre-need arrangements and to the crematory authority designated to perform the cremation. Unless the authorization is revoked, a person in possession of the executed form and a person charged with making final arrangements for the final disposition of the deceased must use their best efforts to ensure that the deceased is cremated and that the final instructions contained on the authorization form are carried out. The bill also lists other persons who may serve as the deceased's authorizing agent and who may, in the absence of a preneed cremation authorization, authorize cremation or revoke a cremation authorization.

The bill prohibits a crematory authority from cremating human remains until it receives a copy of the death certificate, a cremation authorization form executed by the deceased on a preneed basis or by the authorizing agent, a completed and executed burial transit permit, and a cremation permit. The bill lists information which must be included in the authorization form, which includes, among other requirements, authorization from the authorizing agent and the funeral director or establishment for the crematory authority to perform the funeral; a statement that the human remains do not contain any material or implant which could be hazardous or damaging to the cremation chamber or to the person performing the cremation; the method, if known, by which disposition of the cremated remains is to take place, and a specific statement authorizing the crematory authority to proceed with the cremation upon receipt of the human remains. An authorizing agent, after executing a cremation authorization form, may revoke the authorization and instruct the funeral director to instruct the crematory authority to cancel the cremation. The bill provides the crematory authority may not be held liable, except in cases of gross negligence, for the cremation, release or disposal of human remains if the authority acted in accordance with the provisions of this act.

Only licensed crematories may cremate human remains and only licensed funeral directors or establishments may sell pre-need and at-need merchandise. Crematory authorities are required to maintain at their place of business a permanent record of each cremation occurring at its facility and these authorities also must maintain records of all cremated remains it disposes. Cemeteries are required to maintain records of cremated remains disposed of on their property.

The bill lists requirements for delivery of bodies to crematory authorities and also prohibits the cremation of the remains of an unidentified dead body and requires the medical examiner or coroner to have those remains buried or interred in a cemetery in the county where the remains were found

**Nursing Examinations** (H. 4763, Rep. Kirsh). This bill provides that the State's Nurse Practice Act does not prohibit the practice of nursing by nursing school graduates who are awaiting licensing examination results and also revises licensing re-examination requirements, to provide that an applicant who fails the exam may repeat the exam within 1 year of taking the exam, as provided in regulation by the State Board of Nursing. An applicant



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who does not pass the exam within that time period must provide satisfactory evidence to the board of remediation before reexamination. An applicant who has not passed the exam within 3 years of first taking the exam must requalify to take the exam, as provided by the board in regulation.

Nursing Home Residents May Contract with Persons Not Employed by Nursing Home to Provide Certain Services (H. 4780, Rep. Klauber). This bill allows a nursing home resident to contract with a person not associated with or employed by the nursing home to perform certain agreed-upon services, unless these services are prohibited from being performed by state or federal law or by the written contract between the nursing home and the resident.

DHEC Directed to Enforce 1991 Administrative Order in Charleston County (H. 4782, Rep. Gonzales). This joint resolution requires the Department of Health and Environmental Control (DHEC) to immediately enforce its September 1991 administrative order requiring Carolina Water Service of Charleston County to connect its Pepperhill sewage system to the North Charleston Sewer District.

Reauthorization of State Board of Physical Therapy Examiners (S. 1116, Rep. Drummond). This bill reauthorizes for 6 years the existence of the State Board of Physical Therapy Examiners.

## Ways and Means

Free Tuition at Public Institutions of Higher Learning for Children of Wartime Veterans Who Were Awarded the Purple Heart (H. 4735, Rep. Anderson). Under current law, the child of a wartime veteran qualifies for free tuition at a state-supported college, university or post high school technical education institution if that veteran meets certain criteria (e.g., was a prisoner of war, is permanently disabled, etc.). This bill would expand the criteria to provide that if a wartime veteran has been awarded the Purple Heart, then his child also qualifies for free tuition.

Sales Tax Exemptions (H. 4739, Rep. Hines). This bill requires the Department of Revenue and Taxation to prescribe an exemption certificate for persons purchasing certain agricultural-related items (e.g., animal feed, electricity for crop irrigation, etc.) which are exempt from the state's sales tax. To obtain this exemption, the buyer must present this certificate or the retailer must keep on file a copy of the certificate. When the buyer makes a tax exempt purchase under these provisions, he must sign a statement that the items are to be used for exempt purposes, and his signature makes him liable for any tax determined to be due on the sale. If adopted, these provisions would be effective on the first day of the third month following approval by the governor.

Increased Fees Imposed on Persons Participating in Pretrial Intervention Programs (H. 4744, Rep. Robinson). This bill increases from \$250 to \$300 the fee required of persons who participate in a pretrial



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intervention program and provides that this additional \$50 fee must be remitted to the law enforcement agency which initiated the case.

**Referendum Required for Increases In Existing State Taxes or Imposition of New State Taxes** (H. 4748, Rep. Quinn). This proposed constitutional amendment is identical to H. 4563 (introduced last month and referred to the House Judiciary Committee). Both measures would prohibit State taxes from being increased and new State Taxes from being imposed unless the proposed tax increase or imposition is approved by voters in a referendum. This requirement would be cumulative to other limitations on tax increases or new taxes provided in the Constitution. Additionally, beginning in Fiscal Year 1995-1996, State spending in a fiscal year may not grow by more than the rate of inflation, except that this limitation does not apply to spending financed from bonded indebtedness and spending of revenues not derived from taxes imposed by the State.

These limitations on taxes and spending may be suspended by the governor for a specifically-limited time period if, upon his conclusion that prevailing economic conditions and the fiscal condition of the State so necessitate, the governor issues an executive order declaring a fiscal emergency. When the fiscal emergency ends, these limitations are reinstated, except that the limitation on new taxes and tax increases applies to taxes and tax increases imposed at the time the emergency ends and the limitation on spending increases applies effective with the first fiscal year beginning after the fiscal emergency ends.

**Repeal of 30 Day Limit on Annual Leave Use in a Year** (H. 4755, Rep. Rogers). This bill deletes provisions which prohibit permanent, full-time state employees from using more than 30 days' annual leave in a calendar year.

**Levies on Mobile Homes** (H. 4764, Rep. J. Wilder). Under these provisions, when a delinquent tax collector levies taxes on a mobile or manufactured home, he must, before proceeding to advertise the home for sale, give 20 days' written notice of the levy to the holder of each lien identified on forms provided to the auditor of the county for liens created after 1994 and to lienholders contained on the certificate of title held by the Department of Revenue and Taxation, Division of Motor Vehicles, for liens created before 1995. This notice must contain a description of the home levied upon, name of the home's owner, the year for which the taxes were assessed, and a statement of the amount of the taxes with the accrued costs. The notice must be delivered to the lienholder either personally or by certified mail. When a person submits an application for title on a mobile or manufactured home, he must also provide to the treasurer of the county where the home is to be located a copy of the completed application submitted to the Division of Motor Vehicles. A person who applies for a title for a mobile or manufactured home who fails to provide a copy of the application to the appropriate county treasurer is guilty of a misdemeanor and upon conviction must be fined between \$100-\$500 or imprisoned not more than 30 days.



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The bill defines "delinquent tax collector" as the person in a county charged by law with the collection of delinquent ad valorem taxes and provides that a legal residence qualifying for a 4 percent property assessment ratio must have an assessed value of at least \$100. Additionally, a defaulting taxpayer or lienholder seeking to redeem his property after a delinquent tax sale must pay rent to the purchaser at the time of redemption not to exceed 1/12 of the taxes for the last completed property tax year, exclusive of penalties, costs and interest for each month between the sale and redemption. The monthly rental, however, must not be less than \$10.

If adopted, these provisions take effect next January and apply to property taxes going into execution after December of 1994.

**State Income Tax Deduction for All Retirement Income** (H. 4765, Rep. Richardson). This bill deletes current provisions pertaining to retirement income deductions under the state's individual income tax and provides a deduction for all retirement income received by a resident individual taxpayer who before or during the applicable tax year has reached age 65. This deduction also extends to the taxpayer's surviving spouse, regardless of age, but only for retirement income attributable to the deceased taxpayer. The bill defines "retirement income" as income received from qualified retirement plans, as defined in the Internal Revenue Code, and all public employee retirement plans of the federal, state and local governments, including military retirement for persons with 20 or more years active military duty.

**Repeal of Safe Drinking Water Fee** (H. 4766, Rep. Chamblee). This bill deletes a temporary provision in the 1993-1994 General Appropriation Act which authorizes the Department of Health and Environmental Control to collect a fee from each public drinking water system for the purpose of complying with the provisions of the federal Safe Drinking Water Act.

**State Agencies and Departments Must Promptly and Without Charge Provide Copies of Documents Needed by Local Governments for Natural Disaster Relief Purposes** (H. 4770, Rep. Gonzales). This bill requires all state agencies and departments to provide promptly and without charge copies of documents requested by a county, municipality or other political subdivision of the state or agency or department thereof if the requesting agency certifies that the copies are needed for natural disaster relief purposes to include documentation to a federal relief agency of expenses occurred or actions taken. These provisions also apply to Freedom of Information requests.

**Sales Tax Exemptions for Foodstuffs for the Homeless Which Are Sold to Nonprofit Organizations and Foodstuffs Sold From One Nonprofit Organization to Another** (H. 4771, Rep. Quinn). This bill exempts from the State's sales tax foodstuffs, whether prepared or packaged for the homeless or needy, that are sold to nonprofit organizations, along with foodstuffs that are subsequently sold or donated by one nonprofit organization to another nonprofit organization. These exemptions apply only to foodstuffs which are



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eligible for purchase under the food stamp program of the U.S. Department of Agriculture.

### Without Reference

Creation of Beaufort County Board of Elections and Registration (H. 4732, Rep. Richardson). This bill abolishes the Beaufort County Election Commission and the Beaufort County Registration Board and devolves the powers of these entities to a newly-created County Board of Elections and Registration. This new board would consist of 9 members, appointed by the governor, of whom 4 would be appointed upon the recommendation of the 2 senators representing the county and 5 would be appointed upon the recommendation of a majority of the county's legislative delegation. The 9 members would serve staggered 4-year terms, and one member must serve as chairman as designated by the county's 6-member legislative delegation. Board members and their staff would receive compensation as may be appropriated by the county's governing body upon recommendation of the county's legislative delegation.

Term Limits and Removal of Members of Richland-Lexington Airport Commission (H. 4737, Rep. Gamble). This bill limits members of the Richland-Lexington Airport Commission to 2 consecutive terms and provides that these members may be removed by the governor for neglect of duty, misconduct, or malfeasance in office after being given a written statement of reasons and an opportunity to be heard.

Term Limits and Removal of Members of Midlands Technical College Commission (H. 4738, Rep. Gamble). This bill increases the terms of members of the Midlands Technical College Commission from 3 years to 4 years, limits members to 2 consecutive terms, and provides that any member may be removed by the governor for neglect of duty, misconduct or malfeasance in office after being given a written statement of reasons and an opportunity to be heard.

Horry County Board of Education Must Be Elected at Time of General Election (H. 4752, Rep. Kelley). This bill requires members of the Horry County Board of Education, beginning with the 1994 election, to be elected in a nonpartisan election held at the time of the general election. The costs of this election must be borne by the school district.

Temporary Suspension of Requirement that Applicants for Alarm System Business License Must Complete Certain Fire Alarm Test (H. 4754, Rep. Baker). This joint resolution suspends for 180 days a subsection in a current statute (Section 40-79-140[a], Code of Laws) requiring an applicant for an alarm service business license to provide evidence of satisfactory completion of the National Institute for Certification in Engineering Technologies (NICET) Level III Fire Alarm Systems Engineering Technician's Competency Test.

Legislative Update, February 22, 1994

Health Care Cooperation Act (H. 4775, Rep. Hodges). This bill is designed to allow health care facilities to enter into cooperative agreements for the sharing of equipment, facilities and the like in an effort to reduce unnecessary duplication in the provision of health care and thus help to contain rising health care costs. This bill is virtually identical to H. 4401, adopted by the House Judiciary Committee last month and currently on the House contested calendar. The only difference between the 2 bills is that under H. 4775, the Department of Health and Environmental Control, in evaluating the benefits likely to result from a cooperative agreement between health care providers, also must consider the provision or enhancement of health care services to Medicaid, indigent or charity care patients by parties to the agreement.

Creation of Colleton County Registration and Elections Commission (H. 4779, Rep. Harrelson). This bill abolishes the Colleton County Election Commission and the county's Registration Board and devolves the functions of those 2 entities to a newly-created County Commission of Registration and Elections. This commission would consist of 9 members, appointed by the governor upon recommendation of a majority of the county's legislative delegation, including half of the 2 senators and half of the 5 House members comprising that county's delegation. Commissioners would serve staggered 4-year terms and, along with the executive director and staff, would receive compensation as may be appropriated by the county council upon the recommendation of the county legislative delegation. The bill also provides that the commission's executive director must be appointed and may be removed by a majority of the county's legislative delegation, including half the senators and half the House members comprising that delegation.

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